



Office of Training Services

## **Standard Operating Procedure for auditing contact hours for ESC and SWM recertification**

*Version: January 22, 2018*

## **Introduction**

This SOP describes the procedure that the Office of Training Services (OTS) utilizes when validating contact hours submitted by individuals for recertification to maintain their Stormwater or Erosion Certification.

## **Background**

DEQ [Guidance Memo No. 15-2002](#) (included by reference as part of this SOP) provides details on the recertification process, the various options available to re-certify, as well as the number of contact hours required to recertify for each certification classification. This SOP document outlines the process specific to item IV-(4) of the guidance memo.

## **Implementation Process**

The following procedure used by DEQ is implemented in a manner that utilizes several DEQ staff members to create a peer review process. OTS staff members are considered subject matter experts in each of the certification classification areas and use that knowledge and best judgement to fairly evaluate the relevancy of contact hours claimed for recertification through this process.

On a regular basis, OTS staff will extract a contact hour audit report from the Certification and Accreditation Tracking System (CATS). This CATS audit report will show all courses entered by certified individuals that have not been validated. OTS staff will review these courses for relevancy using the method described below.

In addition, OTS staff will conduct random/spot checks of those courses which have been determined to be relevant in order to confirm the certificate holder was actually registered and successfully completed the course used for recertification.

## **Fraud or Misrepresentation**

Should [misrepresentation of data](#) or information provided be suspected, an informal fact finding proceeding under § 2.2-4019 of the Code of Virginia may be conducted and the Board may, after such proceeding, suspend, revoke or refuse to grant or renew the certification of any person per **9VAC25-850-90** of the Training and Certification Regulations.

## **I. Procedure For Processing Relevant Contact Hours**

Courses delivered by third party vendors that are determined to be relevant to the certification being renewed, and that claim an accurate number of contact hours, are validated directly through the CATS audit report.

Courses delivered by DEQ are matched against course completion records. When there is a match, and when the correct contact hours are claimed, course entries are validated in the CATS audit report.

## **II. Procedure For Processing Questionable Contact Hours**

DEQ delivered courses are labeled as suitable for recertification or not. For third party delivered courses contact hours are deemed relevant if they maintain, improve or expand the skills and knowledge relevant to the certification being renewed.

If you have any questions about whether a course is relevant or not, please contact us at [certification@deq.virginia.gov](mailto:certification@deq.virginia.gov).

When courses show an incorrect number of contact hours or when courses are questionable regarding relevancy, OTS will conduct a peer review of each un-validated course and will closely examine the course details.

If additional information is needed to validate course content and/or a portion of the contact hours claimed, OTS staff will consult with peers and will send an email (Appendix A) to the individual requesting a response within 15 days. The certificate holder shall reply to the email address where the notification originated.

1. Once the requested additional information is received, OTS will evaluate the information received and will either validate the course or will proceed with processing non-relevant contact hours (Section III below).
2. If no response is received within 15 days, OTS will proceed with processing contact hours as non-relevant (Section III below).

## **III. Procedure For Processing Non-Relevant Contact Hours**

OTS staff use a peer review process to ensure that due diligence and fair consideration is applied to evaluating the relevance of a particular course, topic and number of contact hours being claimed.

OTS staff shall make every effort to audit contact hours prior to them being used for recertification, however, there may be occasions when auditing is done after an individual has applied contact hours to recertification.

### **III.a. Processing Non-Relevant Contact Hours: Prior to recertification**

Non-relevant contact hours will be removed from CATS, and individuals will be sent an email informing them of the action taken and outlining what steps they need to complete in order to recertify (Appendix B).

### **III.b. Processing Non-Relevant Contact Hours: After recertification**

If an individual has already recertified and has applied contact hours to that recertification that OTS determines are not relevant:

1. OTS flags contact hour entries, which may not be relevant or that may require further information, as “under review” through the CATS audit report.
2. The certificate holder will then be sent an email outlining the required action needed to resolve the issue (Appendix C). The individual will be informed of a date (typically a 90 day deadline) by which OTS needs to be notified that corrective action has been taken.
3. The name of the certificate holder and their 90 day deadline date will be entered onto a 90 day tracking sheet for future follow-up action.
4. The 90 day tracking sheet will be reviewed monthly by OTS staff.
5. After the certificate holder takes the appropriate corrective action, they must contact OTS before the 90 day deadline. OTS staff will then review, approve, and manually update the individual’s contact hour entries in CATS.
6. If a certificate holder takes no action prior to the 90 day deadline, DEQ may conduct an informal fact finding (IFF) proceeding in accordance with the provisions of the Administrative Process Act (APA) §2.2-4019 of the Code of Virginia to determine whether the validity of the individual's recertification.
  - a. The individual will be sent a notice of informal fact finding (IFF) proceeding by US mail (with delivery tracking) informing the individual of a date/time/location of their IFF, (see Appendix D)
  - b. The individual will be offered an opportunity to waive their right to an IFF by emailing a response to [certification@deq.virginia.gov](mailto:certification@deq.virginia.gov).
  - c. If no response is received from the individual the proceeding will be conducted on the date/time/location as indicated in the notice.
  - d. Once the IFF has been conducted the presiding officer will make a recommendation as to the validity of the individual’s recertification.

## Appendix A

### Sample email – Questionable Contact Hours

Mr. Smith,

During a recent audit of your courses and contact hours claimed for recertification, we noticed contact hour entries in the Certification and Accreditation Tracking System (CATS) for which we need additional information. It is not clear to us how relevant these entries are to your certification.

We need the following information to help us determine relevancy:

1. An agenda of the event you attended on 5/26/2016 entitled "Pervious Concrete Contractor Certification Program".
2. An agenda of the class that you took on 6/13/2014 entitled "Soil Erosion Effects On Drinking Water".

You must provide the information requested above within 15 days from the date of this email so we can determine relevancy of this event to your certification. Failure to provide the additional information may result in the expiration of your certification.

If the additional information you provide demonstrates relevancy the entries will be validated. If not, we will remove them from your profile and you will be notified.

Our DEQ procedure for conducting the contact hour audits is listed on the OTS website at:

<http://www.deq.virginia.gov/ConnectWithDEQ/TrainingCertification/CATS.aspx>

If you have any questions, please feel free to contact \_\_\_\_\_ or myself.

Sincerely,

DEQ Staff

## Appendix B

### Sample email – Non-Relevant (Prior to Recertification)

Mr. Smith,

During a recent audit of your courses and contact hours claimed for recertification, DEQ's Office of Training Services (OTS) noticed that #\_\_\_\_ entries in the Certification and Accreditation Tracking System (CATS) cannot be used towards recertification. The criteria used to determine whether a class is eligible or relevant to use for recertification are published on our website <http://www.deq.virginia.gov/ConnectWithDEQ/TrainingCertification/CATS.aspx> and in DEQ guidance memo [Guidance Memo No. 15-2002](#) for recertification (see page 4). The contact hours mentioned above have been removed from your CATS profile.

Based on this audit you still need \_\_\_\_ additional hours to recertify before your certification expiration date of Month Day, 20##. We'd like to suggest that you visit the DEQ Office of Training Services (OTS) website at: <http://www.deq.virginia.gov/connectwithdeq/trainingcertification.aspx> to explore options available for continuing education and contact hours. You are also free to find third party vendors who may provide relevant training.

Our DEQ procedure for conducting the contact hour audits is listed on the OTS website at: <http://www.deq.virginia.gov/ConnectWithDEQ/TrainingCertification/CATS.aspx>

If you have any questions, please feel free to contact \_\_\_\_\_ or myself.

Sincerely,

DEQ Staff

## Appendix C

### Sample email – Non-Relevant (After Recertification)

Mr. Smith,

The DEQ Office of Training Services (OTS) is currently auditing the contact hour entries you have recorded in the Certification and Accreditation Tracking System (CATS) for your \_\_\_\_ Certificate (#\_\_\_\_) which you recertified on Month, Day 20##.

While it appears you have taken a number of courses and/or additional training opportunities, we have determined that the following contact hours you have claimed cannot be used for recertification.

The criteria used to determine if a course or additional training is eligible or relevant to use for recertification are published on our website <http://www.deq.virginia.gov/ConnectWithDEQ/TrainingCertification/CATS.aspx> and in the DEQ guidance memo [Guidance Memo No. 15-2002](#) for recertification (see page 4).

The contact hours that cannot be used for recertification based on the above criteria are:

- (List training here and explain why it is not being considered “relevancy or other reason”)

(If applicable)...Furthermore, we need more information on the following classes to determine whether they meet our recertification requirements:

- Using the email example A above for instance (Explain why more information is needed and what needs to be provided)

Based on this audit you would still need \_\_\_\_ additional hours to be eligible to recertify.

Because you have already recertified using non-relevant contact hours, the following options are available to remedy this situation:

1. Option 1: You have 90 days from the date of this email to make up the contact hour deficiency and to provide OTS with evidence that you have taken the needed additional classes or training that fit the recertification criteria specified above. Once you notify [certification@deq.virginia.gov](mailto:certification@deq.virginia.gov) we will review and approve those classes and update your information in CATS to reflect that you have fulfilled the recertification requirements. DEQ offers continuing education classes they can be found here: <http://www.deq.virginia.gov/ConnectWithDEQ/TrainingCertification/ContinuingEducation.aspx>
2. Option 2: You may choose to retake the exam with Pearson Vue. You can find the exam information on our website:

<http://www.deq.virginia.gov/connectwithdeq/trainingcertification/learningresources/examinationinformation.aspx>

Please notify OTS of your decision by close of business on or before Month Day, 20## as to which option you would like to choose. Failure to notify OTS within the time frames stated above may result in an informal fact finding proceeding to determine the validity of your recertification.

If you have any questions, please feel free to contact \_\_\_\_\_ or myself.

Sincerely,

DEQ Staff



## Appendix D

### Sample letter - notice of informal fact finding (IFF) proceeding

Dear **[NAME]**:

You are hereby notified that, pursuant to Virginia Code (Va. Code) § 2.2-4019, the Department of Environmental Quality (“Department” or “DEQ”) will conduct an informal fact finding proceeding on **[DATE]** at **[TIME]** at the Department of Environmental Quality **[OFFICE]** regarding **[NAME]**.

If you wish to waive your right to an Informal Fact Finding proceeding, please email [certification@deq.virginia.gov](mailto:certification@deq.virginia.gov).

#### **PURPOSE**

The Informal Fact Finding Proceeding will determine the recertification validity of **[NAME]** as a **[CERTIFICATION TYPE]** pursuant to the Erosion and Sediment Control and Stormwater Management Certification Regulations, 9 VAC 25-850-10 *et seq.* The alleged deficiencies with the recertification application are set forth in this Notice Letter. DEQ staff will be seeking a case decision finding **[NAME]** recertification invalid under the Erosion and Sediment Control and Stormwater Management Certification Regulations.

#### **INFORMATION TO BE USED BY DEQ**

This letter notifies you of information upon which DEQ staff may rely to request the issuance of a case decision in this matter. In addition to the information enclosed with this Notice Letter and labeled as “DEQ Exhibit Book,” DEQ staff may also rely on other public documents in DEQ files. The enclosed information, the information in DEQ’s case file, and the information presented by witnesses will be relied upon to ascertain the facts in this matter.

DEQ staff will also rely on applicable statutes, regulations, and DEQ guidance. In addition to the laws and regulations cited in this Notice Letter, DEQ may rely on other authorities. Full texts of statutes, regulations, and DEQ guidance can be obtained at <http://www.deq.virginia.gov/LawsRegulations.aspx> or <http://lis.virginia.gov/> (statutes and regulations) and <http://townhall.virginia.gov/L/GDocs.cfm> (DEQ guidance). Copies will be provided upon request.

#### **ALLEGED DEFICIENCIES AND LEGAL REQUIREMENTS**

[INSERT DEFICIENCIES AND LEGAL REQUIREMENTS.]

#### **RECOMMENDED DECISION**

DEQ staff will request a case decision finding **[NAME]** recertification invalid:

## **PROCEDURES**

**[NAME]** may appear in person or by counsel or other qualified representative pursuant to Va. Code § 2.2-4019. At this proceeding, **[NAME]** will be able to present factual data, argument, or proof in connection with this case. DEQ staff may rely on the enclosed documents, other documents in its files, and statements of DEQ staff to substantiate the alleged deficiencies. A presiding officer will hear the evidence in this case and prepare an independent draft case decision for review by DEQ's Training Manager. The Training Manager will then issue a decision in this matter.

**Be advised that if you fail to attend or appear without good cause to an informal fact-finding proceeding conducted pursuant to Va. Code § 2.2-4019, the presiding officer may issue a default order regarding the subject of this notice.** If a default order is issued, the presiding officer may conduct all further proceedings necessary to complete the adjudication and shall determine all issues in the adjudication, including those affecting you. Further, an order may be issued against you based on any admissions or other evidence without notice to you.

You will be notified of the results of the proceedings in accordance with Va. Code § 2.2-4019 and have the right to appeal any adverse decision in accordance with 9 VAC 25-850-80(B) and Va. Code § 2.2-4026.

**[AGENCY ADVOCATE]** will represent DEQ at this proceeding. Please contact **[AGENCY ADVOCATE]** at **[PHONE NUMBER]** or **[EMAIL ADDRESS]** within ten (10) calendar days of the receipt of this letter to indicate whether you will be represented at this Informal Fact Finding Proceeding by counsel or if you are unable to appear at this time and place.

If you have any questions or require assistance, please contact **[AGENCY ADVOCATE OR OTHER DESIGNATED DEQ STAFF]** at **[PHONE NUMBER]** or **[EMAIL ADDRESS]**.

Sincerely,